



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3503 FAX (603) 271-2867



June 6, 2003

Clermont Drouin  
Claremont Trucking, Inc.  
24 Promenade Street  
Gorham, NH 03581

Re: Administrative Order by Consent Docket No. WMD 03-001

Dear Mr. Drouin:

Enclosed for your records is a copy of the Administrative Order by Consent in this matter executed by Philip J. O'Brien, Ph.D., Waste Management Division Director, and accepted by Commissioner Michael P. Nolin on June 5, 2003. On behalf of the Department of Environmental Services, thank you for your cooperation in resolving these matters. If you have any questions, please contact me at (603) 271-6072, or by e-mail at [msclafani@des.state.nh.us](mailto:msclafani@des.state.nh.us).

Sincerely,  
**COPY**  
Michael Scalfani,  
Legal Assistant

cc: Philip J. O'Brien, Ph.D., Director, Waste Management Division  
Mark R. Harbaugh, DES Legal Unit  
Public Information Officer, DES PIP  
Michael Juranty, WMD UST



**State of New Hampshire**  
**DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-3644 FAX (603) 271-2181



Clermont Trucking, Inc.  
24 Promenade Street  
Gorham, NH 03581

Re: DES Site No. 199912011  
Clermont Trucking, Inc.  
24 Promenade Street  
Gorham, NH 03581

**ADMINISTRATIVE ORDER**  
**BY CONSENT**  
**No. WMD 03-01**  
April 22, 2003

**A. INTRODUCTION**

This Administrative Order by Consent is issued by the Department of Environmental Services, Waste Management Division to, and with the consent of, Clermont Trucking, Inc., pursuant to RSA 146-A:11-c, RSA 146-A:15, and RSA 146-A:16. This Administrative Order by Consent is effective upon signature by both parties.

**B. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.
2. Clermont Trucking, Inc. is a New Hampshire corporation having a mailing address of 24 Promenade Street, Gorham, NH 03581.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 146-A authorizes DES to minimize contamination of the waters and land of the state due to improper storage and handling of petroleum by establishing requirements for the operation of aboveground petroleum storage facilities. Pursuant to RSA 146-A:11-c, the Commissioner of DES has adopted NH Administrative Rules Env-Wm 1402 to implement this program.
2. RSA 146-A:15 authorizes the Commissioner of DES to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-A, including any rule adopted pursuant thereto. Pursuant to RSA 146-C:15, the Commissioner of DES has adopted Env-C 615 to establish the schedule of fines for such violations relating to aboveground storage tanks.
3. Clermont Trucking, Inc. is the owner of one unknown aged 20,000-gallon diesel aboveground petroleum storage tank ("subject AST system") located at Clermont Trucking, Inc., 24 Promenade Street, Gorham, further identified by the DES site number 199912011 ("the Facility").
4. The AST system at the Facility is subject to the requirements of NH Administrative Rules Env-Wm 1402.

5. Env-Wm 1402.29 requires that the owner or operator shall perform an initial detailed interior tank inspection of any tank greater than or equal to 5,100-gallons in size when it is 10-years old (20-years old if entirely on cradles), or by April 25, 2002, whichever is later (by April 25, 2002 if of an unknown age). Such inspection shall be performed by an American Petroleum Institute ("API") certified inspector or by a licensed professional engineer ("P.E.") registered in any state.
6. The subject AST system at the Facility has not had a detailed interior tank inspection performed by an API certified inspector or a licensed P.E. as required by Env-Wm 1402.29.

#### **D. DETERMINATION OF VIOLATIONS**

1. Clermont Trucking, Inc. has violated Env-Wm 1402.29 by failing to perform a detailed interior inspection on the Facility's subject AST system.

#### **E. ORDER**

Based on the above findings, DES hereby orders Clermont Trucking, Inc., and Clermont Trucking, Inc. agrees, to undertake and complete the following actions in accordance with the time schedules specified:

1. In calendar year 2003, Clermont Trucking, Inc. shall have the detailed interior tank inspection performed by an API certified inspector or a licensed P.E. for the subject AST system at the Facility and submit the inspection report to DES within 30 days of the date of the report.
2. Clermont Trucking, Inc. shall send correspondence, inspection report summaries and results, and interior inspection certifications signed by an API certified inspector or a P.E. to DES as follows:

Michael W. Juranty, P.E.  
DES Waste Management Division  
PO Box 95  
Concord, NH 03302-0095  
Fax No.: (603) 271-2181

#### **F. ADMINISTRATIVE FINES/STIPULATED PENALTIES**

1. Clermont Trucking, Inc. agrees to pay a stipulated penalty of \$2,000 per calendar month or portion thereof that compliance with each item in Section E. is not achieved within the specified time. If stipulated penalties become due, payment shall be by certified check made payable to "Treasurer, State of New Hampshire" and mailed to DES Legal Unit, Attn: Michael Sclafani, Legal Assistant, PO Box 95, Concord, NH 03302-0095, within 30 days of the date of notice from DES that payment is required.

**G. CONSENT AND WAIVER OF APPEAL**

1. By execution of this Administrative Order by Consent, Clermont Trucking, Inc. agrees that this Order shall apply to and be binding upon Clermont Trucking, Inc., and agrees that this Order may be entered and enforced by a court of competent jurisdiction.
2. By execution of this Administrative Order by Consent, Clermont Trucking, Inc. waives any right to appeal this Administrative Order by Consent provided by statute, rule, or common law, including without limitation the right to appeal to the Waste Management Council, and waives any right to object to the entry and enforcement of this order by a court of competent jurisdiction.
3. By execution of this Administrative Order by Consent, Clermont Trucking, Inc. waives any right to a hearing on or appeal of the penalties specified in sections E and F provided by statute, rule, or common law, and waives any right to object to the penalties in any collection action initiated by DES due to non-payment of the penalties by Clermont Trucking, Inc..

Clermont Trucking, Inc.

**COPY**  
By: Clermont Drouin  
Duly Authorized

5/19/03  
Date

NH Department of Environmental Services

**COPY**  
Philip J. O'Brien, Ph.D., P.G., Director  
Waste Management Division

5/29/03  
Date

**COPY**  
Michael P. Nolin  
Michael P. Nolin Commissioner

06 05 03  
Date

cc: Gretchen Rule, DES Legal Unit  
Public Information Officer, DES PIP Office